

## Article - Natural Resources

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§5–1603.

(a) (1) A unit of local government having planning and zoning authority shall develop a local forest conservation program, consistent with the intent, requirements, and standards of this subtitle.

(2) By April 30, 1992 all units of government with planning and zoning authority shall submit a proposed forest conservation program, which meets or is more stringent than the requirements and standards of this subtitle, to the Department for its review and approval.

(3) A unit of local government which has an existing program of forest conservation, or subsequently adopts such a program prior to December 31, 1992, may continue to administer its program prior to approval by the Department of the local forest conservation program.

(4) A municipality which has planning and zoning authority may, with the concurrence of the county and the Department, assign its obligations under this subtitle to the county.

(b) (1) By July 1, 1992 the Department shall either approve a proposed local forest conservation program as submitted by the local authority or provide a written notice of program elements needing revision.

(2) Local forest conservation programs requiring revisions shall be resubmitted to the Department within 2 months of the date the Department notified the local authority of the need for revisions.

(c) (1) All units of local government with planning and zoning authority shall submit to the Department, by December 31, 1992, their adopted forest conservation program which meets or is more stringent than the requirements and standards of this subtitle.

(2) A local forest conservation program, which has been approved by the Department, shall include:

(i) A policy document and all applicable new and amended local ordinances relating to implementation of the regulated activities, exemptions, the review, approval and appeal processes, incentives, legal instruments for protection, enforcement program, and penalties; and

(ii) A technical manual which outlines submittal requirements for forest stand delineations, required information for the approval of a forest conservation plan, specific forest conservation criteria and protection techniques.

(3) (i) A local authority shall review and amend, as appropriate, all current local ordinances, policies and procedures that are inconsistent with the intent and requirements of this subtitle such as parking, road width, setback, curb and gutter, grading, and sidewalk requirements.

(ii) A local forest conservation program, when approved by the Department, may:

1. Allow clustering and other innovative land use techniques that protect and establish forests where open space is preserved, sensitive areas are protected, and development is physically concentrated; and

2. Waive the requirements of this subtitle for previously developed areas covered by impervious surface and located in priority funding areas at the time of the application for subdivision plan, grading, or sediment control permit approval.

(d) Failure to submit a proposed local forest conservation program under subsection (a) of this section or failure to adopt a program approved by the Department prior to December 31, 1992 under subsection (b) of this section shall result in the Department's assumption of review and approval of all forest conservation plans within the jurisdiction of that local authority.

(e) (1) (i) The Department shall conduct a review of each local authority's program at least once every 2 years from the date of initial departmental approval.

(ii) In its biennial review, the Department shall evaluate the level of compliance with the performance standards and required forest conservation.

(2) (i) If a local authority's program is found to be deficient by the Department, then the Department shall give notice and allow the local authority 90 days for compliance.

(ii) If, after 90 days, a local authority has failed to comply with the terms of a notice given by the Department, the Department may do one or more of the following:

1. Assume review and approval of all forest conservation plans within the jurisdiction of the local authority until the deficiencies are corrected;

2. On a finding by an auditor made in consultation with the Office of the Attorney General that a local authority has misappropriated local forest conservation funds, the Department may require the local authority to submit payment to the State Conservation Fund for the amount of any misappropriated local conservation funds; and

3. Request that the Attorney General investigate payments and expenditures of funds collected by the local authority under this subtitle.

(f) After December 31, 1992, the Public Service Commission shall give due consideration to the need to minimize the loss of forest and the provisions for afforestation and reforestation set forth in this subtitle together with all applicable electrical safety codes, when reviewing applications for a certificate of public convenience and necessity issued pursuant to § 7-204, § 7-205, § 7-207, or § 7-208 of the Public Utilities Article.

(g) A local authority or the Department in its administration of a State forest conservation program in jurisdictions which do not have an approved local program in effect may establish reasonable and appropriate procedures for the recovery of all costs incurred in the development, implementation, administration, and enforcement of the local forest conservation program or the State forest conservation program for jurisdictions without an approved forest conservation program.

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